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In re Application of
Niu et al.
Application No. 10/051,830
Filed: January 16, 2002
Attorney Docket No. 509982001200

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: **OFFICE OF PETITIONS**
: **DECISION GRANTING PETITION**
: **UNDER 37 CFR 1.137(b)**
:

This is a decision on the petition, filed May 2, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on January 13, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 23, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2123 for appropriate consideration of the Information Disclosure Statement filed on March 11, 2002, and the supplemental Information Disclosure Statements filed on March 25, 2002 and April 17, 2003.



Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Francis Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request